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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,473	02/21/2002	Hoki Kwon	15436.438.I	4854
22913	7590	12/08/2005	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			NGUYEN, DUNG T	
		ART UNIT		PAPER NUMBER
		2828		

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/078,473	KWON, HOKI
	Examiner Dung (Michael) T. Nguyen	Art Unit 2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-7 and 13-21 is/are allowed.
- 6) Claim(s) 8-10 is/are rejected.
- 7) Claim(s) 11 and 12 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 8-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Klem et al. (5679963).

With respect to claim 1, Klem et al. disclose in Fig.1 a tunnel junction (5) having a p-doped GaAs(1-x)Sbx layer (col.3, line 4).

With respect to claim 10, Klem et al. disclose in Fig.1 an n-doped layer of InGaAlAs (same as claimed AlInGaAs).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klem et al. (5679963) in view of Kopf et al. (5268582).

With respect to claim 9, Klem et al. disclose all limitations of the claim except for the p-dopant of carbon with a concentration greater than 1x19sub19 cm-3.

Kopf et al. teach the p-dopant of carbon with a concentration greater than 1x19sub19 cm-3 (col.1, lines 20-23).

Klem et al. and Kopf et al. are the same analogous art of semiconductor.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Klem et al. what is taught by Kopf et al. in order to have a better formation of compensated materials on the semiconductor devices (col.1, lines 27-28).

Allowable Subject Matter

Claims 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:
Klem et al. and Kopf et al. fail to disclose the limitations as claimed in claims 11-12.

Claims 1-7 and 13-21 are allowed.

The following is an examiner's statement of reasons for allowance:

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Claim 1 is allowed over the Klem et al. and Kopf et al. prior art because they fail to teach a method of fabricating a tunnel junction of a VCSEL comprising locating a substrate in an MOCVD chamber and setting a temperature between 500 and 650 degrees C, and growing a tunnel junction $\text{GaAs}(1-x)\text{Sbx}$.

Claim 13 is allowed over the Klem et al. and Kopf et al. prior art because they fail to teach a VCSEL comprising an active region having a plurality of quantum wells and a tunnel junction over said active region, wherein said tunnel junction includes $\text{GaAs}(1-x)\text{Sbx}$ layer. Klem et al. and Kopf et al. only teach said tunnel junction includes $\text{GaAs}(1-x)\text{Sbx}$ layer using in the semiconductor device not in the laser device.

Claims 2-7 and 14-21 are found allowable due to their dependency of claims 1 and 13.

Communication Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung (Michael) T Nguyen whose telephone number is (571) 272-1949. The examiner can normally be reached on 8:30 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Min Harvey can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3329.


Michael Dung Nguyen

12/02/05